S.B.CIVIL WRIT PETITION NO.3430/2004

Rajendra Prasad
V.
State of Rajasthan & Ors.

DATE OF ORDER :: 28th May, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. G.J.Gupta, for the petitioner.
Mr. S.S.Ladrecha, Additional Government Advocate.

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By this petition for writ a challenge is given to the order dated 10.7.2004 whereby the petitioner, a Patwari, was transferred from one District to another.

The allegation of the petitioner is that the order impugned was passed by the Divisional Commissioner, Bikaner without adhering the provisions of Rule 9 read with Rule 412 of the Rajasthan Land Revenue (Land Records) Rules, 1957 (hereinafter referred to as “the Rules of 1957”). According to the petitioner, transfer of a Patwari from one District to another could have not been made without sanction of Member (Land Records), Board of Revenue, but in the instant matter the order was passed by the Divisional Commissioner without having any authority of law. It is further asserted that before passing an order of transfer the authority competent should have satisfied himself that the transfer was necessary in efficiency

of administration. To substantiate the contention reliance is placed by counsel for the petitioner upon a judgment o his Court in the case of Inder Singh & Anr. v. State of Rajasthan & Ors., reported in 2007(1) RLW 737, holding therein as follows:-

> "(23).According to Rule 9 of the Rules of 1957 a Patwari from one Tehsil to another Tehsil in the same district can be transferred by the Collector on being satisfied that such transfer is necessary in interest of efficiency of work or to fill up the vacancies created by long leave, resignation, dismissal, suspension or transfer of a Patwari. Sub-rule(ii) of Rule 9 of the Rules of 1957 further provides that the Patwari on going transfer before getting relieved shall have to complete all his record and clear all his work in arrear. The arrears of work may further be completed by employing extra staff in the event of transfer of a Patwari. The requirements of Rule 9 of the Rules of 1957 to transfer a Patwari are further asserted and reiterated by Rule 412 of the Rules of 1957 to the extent that a transfer of Patwari is ordinarily undesirable and should not be made to suit convenience of individuals. The provisions of Rule 9 read with Rule 412 of the Rules of 1957 make it clear that the transfer of a Patwari is not a normal incidence of service but is an exception. The legislature chose to prescribe statutory guidelines for transfers of Patwaris looking to their special status in land revenue and land record operations.

> (24).A Patwari is a basic administrative unit in administrative hierarchy of government that is dealing with the land revenue, land records and settlement of land. A Patwari is required to discharge quite important statutory duties as prescribed under Chapter-III of the Rules of 1957. A Patwari is a living link between the government and the land holders. The State of Rajasthan, as other parts of the country, is also dominated by farmers and the largest part of the population is involved in profession of agriculture. A Patwari is required to keep living relations with the agriculturists and also required to keep absolute vigilance with revenue records to protect rights of the State and also to maintain harmony and peace among land holders and to avoid unwanted land disputes in his patwar circle. Looking to important statutory duties of a Patwari the law framers provide a special procedure for effecting their transfers. The administrative officers must follow the statutory requirements prescribed to transfer a Patwari. The compliance of the provisions of Rule 9 read with Rule 412 of the Rules of 1957, while transferring a Patwari is mandatory."

In the instant matter the respondents failed to show as to how the competent authority satisfied himself that the transfer of the petitioner was to maintain efficiency of service. In view of it the order impugned deserves to be quashed being in

violation of Rule 9 read with Rule 412 of the Rules of 1957. The same, therefore, deserves to be declared illegal.

Accordingly, this petition for writ is allowed. The order impugned dated 10.7.2004 is quashed.

No order to costs.

(GOVIND MATHUR),J.

Kkm/ps.